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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,049	11/02/2001	Frederik Ekkel	US018177	5146

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EXAMINER	
BECKER, SHAWN M	

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/004,049	EKKEL ET AL.
	Examiner	Art Unit
	Shawn M. Becker	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 March 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: --on—should be inserted between "based" and "a duration" in line 6 of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10, 15-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,600,776 to Johnson et al. (hereinafter Johnson) and "Ad Rates for Advertising on the Boston Links Web Site" (hereinafter Boston Links).

Referring to claims 1 and 8, Johnson teaches a method comprising:

enabling a display, on a graphical user interface (i.e. desktop; Fig. 1 and col. 2, line 61), of a control user interface element (i.e. icon; col. 4, lines 38-40) in association with an application (Mail, for example; col. 6, lines 1-10) that is available on a device controlled through the graphical user interface, the application being at least partially controllable (i.e. opened) using the control user interface element.

Although Johnson teaches the ability to manipulate which objects (icons) are present in a desktop (GUI), when the icons are present, and that the icons represent different applications (see col. 2, line 61 – col. 3, line 57 and Figs. 1-3), Johnson does not teach charging a provider of the

application based on a duration of the display of the control user interface element (i.e. icon) in association with the application. However, Boston Links, teaches a method of charging the provider of an Icon Ad based on the duration of the display (i.e. 1 year) of the icon in the Boston Links graphical user interface (web page). It would have been obvious to one of ordinary skill in the art to charge the provider of the applications associated with the icons in Johnson based on a duration of display as taught in Boston Links in order to assist in the cost of developing the GUI (Operating system desktop) as supported by Boston Links (Icon ads assist cost of developing GUI/web page).

Referring to claim 2, the provider associates the control user interface element with the application in the graphical user interface. See Johnson at col. 1, lines 31-46 and col. 6, lines 6-9, which describe icons that providers associated with applications.

Referring to claim 3, a user of the device of Johnson associates the control user interface element (i.e. newly spawned icon) with the application in the graphical user interface. See col. 3, lines 16-29 and col. 5, lines 19-29.

Referring to claim 4, Johnson teaches that a user of the device is enabled to select the application from a plurality of applications; and, upon selection by the user, automatically adding the control user interface element to the graphical user interface. See col. 4, lines 43-50 and col. 5, lines 1-39, which describe how a user selects an application, which sets it to active, and maps the icon to the Desktop Map (GUI).

Referring to claim 5, Johnson teaches the element is previously present in the graphical user interface and that a user is enabled to select the application from a plurality of applications;

and, upon selection by the user, enabling to associate the control user interface element with the application. See col. 15, lines 55-61, which teaches updating associations for the objects (icons).

Referring to claim 6, Johnson teaches the element is previously present in the graphical user interface enabling a user of the device to select the application from a plurality of applications, and, upon selection by the user, modifying the control user interface element. See col. 3, lines 33-38.

Referring to claim 7, the control user interface element of Johnson is an icon representative of the application. See col. 3, line 39.

Referring to claim 8, Johnson does not explicitly teach enabling the provider to advertise the application. However, the Icon Ad of Johnson and Boston Links may inherently be for a product or application. Therefore, since the Icon Ad advertises an application (i.e. application of Johnson), Johnson and Boston Links imply that the provider may advertise the application. It would have been obvious to one of ordinary skill in the art to enable the provider to advertise the application in the method of Johnson and Boston Links, in order to attract users to the application and make the provider more inclined to pay for the Icon service of Johnson and Boston Links.

Referring to claim 9, Johnson teaches enabling a user of the device to select the application from a plurality of applications; and, upon selection of the application by the user, enabling a download onto the device of a software component associated with the application. For example, one of the applications that may be selected by the user is an email application, which downloads the messages sent to the user. See col. 6, line 6.

Referring to claim 10, the method of Johnson and Boston Links, *supra*, teaches a plurality of graphical menus (i.e. web pages/ pages within the GUI) configured in respective tiers (i.e. Front Page and Specialty Page; Boston Links), wherein the provider is charged based on the tier of the graphical menu containing the element. See how the provider is charged $25.00 for one year on the Front Page and $20.00 for one year on a Specialty Page.

Referring to claim 15, the method of Johnson and Boston Links, *supra*, teaches charging a provider per year or per month (See Boston Links at first sentence under "Front Page"), which implies that the duration of display may vary. It would have been obvious to one of ordinary skill in the art to charge the provider in the method of Johnson and Boston Links per day instead of per month or year to give the provider the option of a shorter display time and smaller fee.

Referring to claim 16, the method of Johnson and Boston Links, *supra*, teaches charging the provider a lump sum (i.e. $25.00 for one year) upon display of the control user interface element (Icon Ad) in association with the application. See Boston Links at first sentence under "Front Page".

Referring to claim 17, Johnson teaches the application comprises an email service. See col. 6, line 6.

Referring to claim 19, clearly the icons of Johnson my represent any type of application, but Johnson does not explicitly teach the application comprises an instant messaging service. However, instant-messaging applications may be represented by the icons of Johnson and Boston Links. The Examiner takes Official Notice of this teaching. It would have been obvious to one or ordinary skill in the art to include instant messaging as the applications in Johnson and Boston Links in order to share the cost of GUI development among instant message providers.

4. Claims 11, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Boston Links, and U.S. Patent No. 6,199,076 to Logan et al. (hereinafter Logan).

Referring to claim 11, although Johnson teaches keeping a history trail (i.e. most recently used list; col. 15, lines 41-45), Johnson does not explicitly teach charging based on a history pattern comprising a usage pattern of the application. However, Logan teaches an advertising method wherein a provider is charged based on a usage pattern of a user (col. 21, lines 44-60), including the history of usage for the provider's program (application). It would have been obvious to one of ordinary skill in the art to base the charging of a provider in the method of Johnson and Boston Links on a history trail comprising a usage pattern as described by Logan in order to minimize the user's fee and fairly charge each application provider (advertiser) based on frequency of use.

Referring to claims 18 and 20, clearly the icons of Johnson my represent any type of application, but Johnson does not explicitly teach the application comprises a news service or audio file retrieving. However, Logan teaches that the advertised applications may be audio files (col. 4, lines 46-50) and a news service (i.e. "today's weather report"; col. 10, line 64). It would have been obvious to one or ordinary skill in the art to include audio files and news services as the applications in Johnson and Boston Links as shown in Logan in order to share the cost of GUI development among news service and audio file providers.

5. Claims 12- 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Boston Links, and U.S. Patent No. 6,335,737 to Grossman et al. (hereinafter Grossman).

Referring to claims 12-14, Johnson and Boston Links teach charging a provider based on the duration of the display of control interface elements (icons), *supra*, but Johnson and Boston Links do not teach that the displaying of the control interface elements (icons) is done within a carousel. However, Grossman teaches a user interface in which icons (control interface elements that may be selected by a user to open respective applications; Grossman at col. 1, lines 12-21) are arranged into a carousel. See Grossman at col. 1, lines 52-67. It would have been obvious to one of ordinary skill in the art to modify the icons of Johnson and Boston Links, such that they are displayed in a carousel as shown in Grossman for improved organization and management of icons and displays on interfaces as described by Grossman (col. 1, lines 37-50).

Conclusion

6. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach methods of selecting items to be displayed in an interface and methods of charging advertisers or application providers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is (703) 305-7756. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smb

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